



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2013-0674; FRL-9913-79-Region-7]

Approval and Promulgation of Implementation Plans; State of Missouri; Control of Nitrogen Oxide Emissions from Large Stationary Internal Combustion Engines.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a State Implementation Plan (SIP) revision submitted by the State of Missouri to EPA on September 21, 2010, with a supplemental revision submitted on July 3, 2013. The purpose of the SIP revision is to incorporate revisions to a Missouri regulation to control Nitrogen Oxide (NO_x) emissions from large stationary internal combustion engines. This revision includes an emission rate limitation for both large stationary diesel and dual fuel internal combustion engines and adds an exemption for compression ignited stationary internal combustion engines that emit 25 tons or less of NO_x between May 1 and September 30. EPA has determined that the SIP revision submitted by the State of Missouri satisfies the applicable requirements of the Clean Air Act (CAA or Act), and in particular, the April 21, 2004, final Federal Phase II NO_x SIP

Call.

DATES: This rule is effective on [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**].

ADDRESSES: EPA has established docket number EPA-R07-OAR-2013-0674 for this action. All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at <http://www.regulations.gov> or in hard copy at U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219 from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Ms. Lachala Kemp, Air Planning and Development Branch U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, KS 66219; *telephone number:* (913) 551-7214; *fax number:* (913) 551-7065; *email address:* kemp.lachala@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us," or "our" refer to EPA. This section provides additional

information by addressing the following questions:

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I. What Action is EPA Taking in this Final Rule?

EPA is taking final action to approve a State Implementation Plan (SIP) revision submitted by the State of Missouri to EPA on September 21, 2010, with a supplemental revision submitted on July 3, 2013. The purpose of the SIP revision is to incorporate changes to a Missouri regulation (Title 10 of the Code of State Regulations (CSR) 10-6.390) to control Nitrogen Oxide (NO_x) emissions from large stationary internal combustion (IC) engines to ensure compliance with the federal NO_x control plan to reduce the transport of air pollutants.¹ EPA finalized the second phase (Phase II) of its rule known as the NO_x SIP Call Rule on April 21, 2004 (69 FR 21604). Phase II required the eastern one-third of Missouri to participate in the NO_x SIP Call and included a provision related to source categories of IC engines. The IC provision established a requirement to decrease emissions from diesel and dual fuel stationary IC engines by ninety percent. Phase II of the NO_x SIP Call also required each state in the control region to submit a

¹ The effective date of the rule in Missouri was May 30, 2010.

SIP that contained adequate provisions prohibiting its sources from emitting air pollutants that would contribute significantly to nonattainment, or interfere with maintenance, in one or more downwind states. *See, generally,* 69 FR 21608.

Missouri's rule establishes emissions levels for large stationary internal combustion engines of greater than one thousand three hundred horsepower located in the counties of Bollinger, Butler, Cape Girardeau, Carter, Clark, Crawford, Dent, Dunklin, Franklin, Gasconade, Iron, Jefferson, Lewis, Lincoln, Madison, Marion, Mississippi, Montgomery, New Madrid, Oregon, Pemiscot, Perry, Pike, Ralls, Reynolds, Ripley, St. Charles, St. Francois, St. Louis, Ste. Genevieve, Scott, Shannon, Stoddard, Warren, Washington, and Wayne counties, and the City of St. Louis in Missouri. To be subject to this rule, the IC engines must either have emitted greater than one ton per day of NOx on average during the period from May 1 through September 30 of 1995, 1996, or 1997, or began operations after September 30, 1997. 10 CSR 10-6.390(1)(A), (B).

On January 8, 2014, EPA published in the **Federal Register** a proposed rulemaking to approve Missouri's request to revise Missouri's SIP and include this 2010 amendment to the Missouri rule. The public comment period on EPA's proposed rule opened January 8, 2014, the date of its publication in the **Federal Register**, and closed on February 7, 2014. During this period,

EPA received one comment letter from a member of the public. The letter is available in the docket to today's final rule. Today's final action includes EPA's response to this comment.

II. What is the Background for the Approvals by EPA in this Final Rule?

This section briefly summarizes the background for today's final action. More detailed discussion of the statutory and regulatory background can be found in the preamble to the proposal for this rulemaking. (79 FR 1350, January 8, 2014).

The Missouri rule establishes emission rate limits using current reporting requirements for both large stationary diesel engines and dual fuel IC engines and adds a twenty five ton NO_x exemption.

Any compression ignited stationary engine that begins operation after September 30, 1997, and emits twenty-five (25) tons or less of NO_x during the period from May 1 through September 30 is exempt from certain emission rate limits found at 10 CSR 10-6.390(3)(B)3 and 4. This exemption is based on the previous year's NO_x emissions during the May 1 through September 30 period. If the exemption limit is exceeded, for any reason, the engine in question will be required to meet the applicable limits of subsection (3)(B) each year thereafter. The exemption does not apply to the record keeping and reporting requirements of 10 CSR 10-6.390(4).

Section 110(1) of the CAA states that EPA shall not approve a revision of a SIP if the revisions would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. The state's SIP revision included a demonstration that this twenty-five ton NO_x exemption for compression ignited stationary IC engines will not adversely impact air quality. The analysis, included in the docket for today's action, also showed that the exemption will not affect the state's ability to meet its NO_x SIP Call obligations.

EPA has reviewed the state's analysis of the potential impacts of this NO_x exemption on air quality and has determined that the twenty-five ton NO_x exemption in 10 CSR 10-6.390 will not adversely impact air quality and will not affect the state's ability to meet its NO_x SIP Call obligations, previously approved in a separate action on August 15, 2006 (71 FR 46860).

III. EPA's Response to Comment

The public comment period on EPA's proposed rule opened January 8, 2014, the date of its publication in the **Federal Register**, and closed on February 7, 2014. During this period, EPA received one comment from a citizen, and the comment letter is available in the docket to today's final rule. Today's final action includes EPA's response to the comment.

Comment: The citizen commented, among other things, that Missouri's allowable NO_x budget should be revised and subsequently a SIP revision should be requested to reflect the lower emissions ceiling.

Response: EPA would like to thank the citizen for the comment, but disagrees with the Commenter's view. EPA's NO_x emissions budgets were set under the final Federal Phase II NO_x SIP Call (69 FR 21604, April 21, 2004). The budgets were an accounting mechanism for ensuring that upwind states have adopted and are implementing control measures that will address their significant contribution to downwind nonattainment, and interference with maintenance areas in other states for the 1-hour and the 1997 8-hour ozone standard. These budgets have been set through notice-and-comment rulemaking and EPA has already determined that Missouri has met its obligation under the Phase II NO_x SIP call (71 FR 46860, August 15, 2006).

IV. EPA's Final Action

In today's rulemaking, EPA is taking final action to approve a revision to the Missouri SIP to control NO_x emissions from large stationary internal combustion engines. The revisions will also add a NO_x exemption for compression ignited stationary internal combustion engines that emit 25 tons or less of NO_x during the ozone season. If this level is exceeded, the regular

emission rate limits in the regulation would apply. The requirements prescribed in the SIP revision are consistent with the April 21, 2004, final Federal Phase II NO_x SIP Call. EPA has determined that the SIP submitted by the State of Missouri satisfies the applicable requirements of the CAA.

Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this final action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this final action:

- is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Intergovernmental relations,
Nitrogen oxides, Reporting and recordkeeping requirements.

Dated: July 1, 2014.

Karl Brooks,
Regional Administrator,
Region 7.

For the reasons stated in the preamble, the Environmental Protection Agency proposes to amend 40 CFR part 52 as set forth below:

40 CFR part 52 is amended as follows:

PART 52-[APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS]

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401 et seq.

Subpart AA - Missouri

2. Section 52.1320 table in paragraph (c) is amended by revising the entry for "Chapter 6 - Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri" "10-6.390" to read as follows:

§52.1320 Identification of plan.

* * * * *

(c)***

EPA-Approved Missouri Regulations

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
* * * * *				
Chapter 6-Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
* * * * *				
10-6.390	Control of NO _x Emissions from Large Stationary Internal Combustion Engines.	05/30/2010	[Insert date of publication in <u>Federal Register</u> and insert <u>Federal Register</u> page number where the document begins]	
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